

**Subject:** [Ccddp-rm] Fwd: Fundamental Fairness and Bindingness  
**Date:** Monday, September 27, 2021 at 11:51:23 AM Mountain Daylight Time  
**From:** Ccddp-rm on behalf of Bernard Turcotte via Ccddp-rm  
**To:** Kimberly Carlson via Ccddp-rm  
**Attachments:** B302739.pdf, ATT00001.txt

----- Forwarded message -----

From: **Dr Eberhard W Lisse via Ccddp-rm** <[ccddp-rm@icann.org](mailto:ccddp-rm@icann.org)>

Date: Tue, Sep 21, 2021 at 8:32 AM

Subject: [Ccddp-rm] Fundamental Fairness and Bindingness

To: <[ccddp-rm@icann.org](mailto:ccddp-rm@icann.org)>

All,

I have had the opportunity to read

<https://www.courts.ca.gov/opinions/documents/B302739.PDF> [[courts.ca.gov](https://www.courts.ca.gov)]

a copy of which I enclose for ease of reference.

It is the Appeal Judgement in the .AFRICA case, which is remarkably readable.

Leaving aside the .AFRICA issue (I happen to agree with the reasoning, by the way), it does inform the work of our Group in a number of aspects:

ICANN is bound to (Fundamental) Fairness by its own bylaws,

ICANN's decision making process should be transparent (ie the reasonable aspect of "fair and reasonable"

IRP is arbitration, no matter what ICANN calls it,

Arbitration can review de-novo,

Arbitration decision can be binding on ICANN (if Californian Law prevented bindingness, I am sure the court would have observed this)

There may be more, but this was just a first reading during my lunch break, so the lawyers on the group should have a detailed go at it.

greetings, el

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10007, Namibia ;\_\_\_\_/ Sect 20 of Act No. 4 of 2019 may apply

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